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8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2002021001516

13 **ELIZABETH MARIE MARKS**
14 **823 Apgar St**
Emeryville, CA 94608-3818.

DEFAULT DECISION AND ORDER

15 **Associate Marriage and Family Therapist**
16 **Registration No. AMFT 116812**

[Gov. Code, §11520]

17 Respondent.

18
19 **FINDINGS OF FACT**

20 1. On or about September 9, 2022, Complainant Steve Sodergren, in his official capacity
21 as the Executive Officer of the Board of Behavioral Sciences (Board), Department of Consumer
22 Affairs, filed Accusation No. 2002021001516 against Elizabeth Marie Marks (Respondent)
23 before the Board of Behavioral Sciences. (Accusation attached as Exhibit A.)

24 2. On or about December 11, 2019, the Board issued Associate Marriage and Family
25 Therapist Registration No. AMFT 116812 to Respondent. The Associate Marriage and Family
26 Therapist Registration expired on December 31, 2020, and has not been renewed.

27 3. On or about September 12, 2022, Respondent was served by Certified and First Class
28 Mail copies of the Accusation No. 2002021001516, Statement to Respondent, Notice of Defense,

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
2 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
3 Code section 136, is required to be reported and maintained with the Board. Respondent's
4 address of record was and is: 823 Apgar St., Emeryville, CA 94608-3818.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505(c) and/or Business and Professions Code section 124.

7 5. Government Code section 11506(c) states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense . . . and the notice shall be deemed a specific denial of all
10 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
11 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
12 discretion may nevertheless grant a hearing.

13 6. The Board takes official notice of its records and the fact that Respondent failed to
14 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
15 waived her right to a hearing on the merits of Accusation No. 2002021001516.

16 7. California Government Code section 11520(a) states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense . . . or to appear at
18 the hearing, the agency may take action based upon the respondent's express
19 admissions or upon other evidence and affidavits may be used as evidence without
20 any notice to respondent

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
24 finds that the charges and allegations in Accusation No. 2002021001516, are separately and
25 severally, found to be true and correct by clear and convincing evidence.

26 9. The Board finds that the actual costs for Investigation and Enforcement are \$3,761.00
27 as of October 10, 2022.

28 **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Elizabeth Marie Marks has
subjected her Associate Marriage and Family Therapist Registration No. AMFT 116812 to
discipline.

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Exhibit A

Accusation

(ELIZABETH MARIE MARKS)

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Supervising Deputy Attorney General
3 JOSHUA D. JOHNSON
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9 **BEFORE THE**
10 **BOARD OF BEHAVIORAL SCIENCES**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2002021001516

14 **ELIZABETH MARIE MARKS**
15 **823 Apgar St**
16 **Emeryville, CA 94608-3818.**

ACCUSATION

17 **Associate Marriage and Family Therapist**
18 **Registration No. AMFT 116812**

Respondent.

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22 **PARTIES**

23 1. Steve Sodergren (Complainant) brings this Accusation solely in his official capacity
24 as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.

25 2. On or about December 11, 2019, the Board of Behavioral Sciences issued Associate
26 Marriage and Family Therapist Registration Number AMFT 116812 to Elizabeth Marie Marks
27 (Respondent). The Associate Marriage and Family Therapist Registration expired on December
28 31, 2020, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board of Behavioral Sciences (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4990.33 of the Code states:

Notwithstanding any other law, except as provided in Section 4990.32, the expiration, cancellation, forfeiture, or suspension of a license, registration, or other authority to practice by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license or registration by a licensee or registrant, of any license or registration within the authority of the board, shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or registrant or to render a decision suspending or revoking the license or registration.

STATUTORY PROVISIONS

6. Section 4982 states:

The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if the licensee or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

...

(c) Administering to himself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

1 (f) Misrepresentation as to the type or status of a license or registration held by
2 the person, or otherwise misrepresenting or permitting misrepresentation of his or her
3 education, professional qualifications, or professional affiliations to any person or
4 entity.

5 ...

6 (i) Intentionally or recklessly causing physical or emotional harm to any client.

7 ...

8 (p) Advertising in a manner that is false, fraudulent, misleading, or deceptive,
9 as defined in Section 651.

10 ...

11 REGULATORY PROVISIONS

12 7. California Code of Regulations, title 16, section 1845, subdivision (f) states:

13 As used in section 4982 of the code, unprofessional conduct includes, but is not
14 limited to:

15 (f) Failure to cooperate and participate in any board investigation pending
16 against the licensee or registrant. This subsection shall not be construed to deprive a
17 licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth
18 Amendment to the Constitution of the United States, or any other constitutional or
19 statutory rights or privileges. This subsection shall not be construed to require a
20 licensee or registrant to cooperate with a request that would require the licensee,
21 registrant, or a consumer to waive any constitutional or statutory rights or privilege or
22 to comply with a request for information or other matters within an unreasonable
23 period of time in light of the time constraints of the licensee's or registrant's practice.
24 Any exercise by a licensee or registrant of any constitutional or statutory rights or
25 privilege shall not be used against the licensee or registrant in a regulatory or
26 disciplinary proceeding against the licensee or registrant.

27 COST RECOVERY

28 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licensee found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

29 FACTUAL ALLEGATIONS

30 9. Respondent, while working at Bay Area Community Services (BACS), provided
therapy to Client 1¹ from about March 2020 through October 2020. Client 1 sought treatment for
various mental health issues, including substance abuse and chronic suicidality.

31 ¹ Identity of Client 1 is protected but will be disclosed pursuant to a discovery request.

1 10. On or about October 15, 2020, Respondent invited Client 1 to Respondent's home
2 where Client 1 made a virtual court appearance. Following the court appearance, Respondent
3 offered Client 1 marijuana, which Client 1 then smoked. Respondent additionally offered Client 1
4 whippets². Later that same night, Respondent and Client 1 went to a drug dealer's home where
5 Respondent purchased cocaine, and Respondent and Client 1 "did a bump" of the cocaine at the
6 drug dealer's home. Client 1 had attempted to decline Respondent's offer of drugs numerous
7 times, but Respondent assured her that it would be therapeutic if Client 1 tried it. Respondent and
8 Client 1 thereafter attended a party in Oakland whereat both Respondent and Client 1 consumed
9 cocaine and drank alcohol. Client 1 went back to Respondent's home after the party.

10 11. On or about the morning of October 16, 2020, Client 1 awoke in Respondent's bed
11 with Respondent next to her. Client 1 began to get up but Respondent encouraged her to remain
12 in bed with Respondent.

13 12. On or about October 19, 2020, Respondent was terminated from employment with
14 BACS after Respondent contacted Client 1 during BACS's active investigation of Respondent
15 regarding her conduct on October 15-16, 2020 with Client 1.

16 13. Respondent thereafter sent approximately 50 messages to Client 1, blaming Client 1
17 for the Board's investigation and Respondent's termination from employment, blaming Client 1
18 for Respondent's stressors related to the Board's investigation and Respondent's termination,
19 demanding Client 1 to stop disclosing information, and admitting to professional wrongdoing.

20 14. The Board, in its investigation into the complaint, sought a response from Respondent
21 as to the claims. On or about November 1, 2021, Respondent wrote a letter to the Board
22 discrediting the validity of Client 1's complaints by framing them as symptoms of Client 1's
23 unmanaged mental health rather than Respondent's misconduct. On or about March 10, 2022, the
24 Board sent Respondent a letter asking for an explanation of photographic evidence provided by
25 Client 1. Respondent did not reply. On or about April 14, 2022, the Board sent a second letter as a
26 follow-up to Respondent. Again, Respondent did not reply and has not provided any further
27 response or information to the Board.

28 ² Nitrous oxide used as a recreational inhalant.

15. Though Respondent's license expired on December 31, 2020, she continued to maintain a LinkedIn webpage identifying herself as "licensed to work" and as having an AMFT registration with the Board from "Dec 2019 – Present" in the experience section.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use/Offer Controlled Substance)

16. Respondent is subject to disciplinary action under Code section 4982, subdivision (c), in that Respondent committed unprofessional conduct when Respondent administered to herself and/or to Client 1 a controlled substance in a manner as to be dangerous or injurious to herself and/or Client 1, as set forth above.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Gross Negligence)

17. Respondent is subject to disciplinary action under Code section 4982, subdivision (d), in that Respondent committed unprofessional conduct when she was grossly negligent in the performance of the duties of a marriage and family therapist, as set forth above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Failure to Cooperate in Board Investigation)

18. Respondent is subject to disciplinary action under Code section 4982, subdivision (e), and California Code of Regulations, title 16, section 1845, subdivision (f), in that Respondent failed to cooperate and participate in the Board's investigation pending against her, as set forth above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Misrepresentation)

19. Respondent is subject to disciplinary action under Code section 4982, subdivision (f), in that she misrepresented the status of her license following her license suspension, as set forth above.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - False Advertising)

20. Respondent is subject to disciplinary action under Code section 4982, subdivision (p),

1 in that she advertised in a manner that is false, fraudulent, misleading, or deceptive by identifying
2 as a practicing Associate Marriage and Family Therapist following her license suspension, as
3 forth above.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct – Physical/Emotional Harm)**

6 21. Respondent is subject to disciplinary action under Code section 4982, subdivision (i),
7 in that Respondent committed unprofessional conduct when she intentionally or recklessly caused
8 physical and/or emotional harm to Client 1, as set forth above.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Behavioral Sciences issue a decision:

12 1. Revoking or suspending Associate Marriage and Family Therapist Registration
13 Number AMFT 116812, issued to Elizabeth Marie Marks;

14 2. Ordering Elizabeth Marie Marks to pay the Board of Behavioral Sciences the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3; and,

17 3. Taking such other and further action as deemed necessary and proper.

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20 DATED: September 9, 2022

Steve Sodergren

STEVE SODERGREN
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant

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